

DENTAL BOARD[650]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 147.76, the Dental Board hereby gives Notice of Intended Action to amend Chapter 1, "Administration," Chapter 16, "Prescribing, Administering, and Dispensing Drugs," Chapter 20, "Dental Assistants," Chapter 22, "Dental Assistant Radiography Qualification," Chapter 25, "Continuing Education," Chapter 27, "Standards of Practice and Principles of Professional Ethics," Chapter 29, "Deep Sedation/General Anesthesia, Conscious Sedation and Nitrous Oxide Inhalation Analgesia," Chapter 30, "Discipline," and Chapter 51, "Contested Cases," Iowa Administrative Code.

Items 1 and 4 update supervision definitions for consistency with Board rules and state law. The definition of "inactive status" has also been changed to clarify existing procedures.

Item 2 adopts a new definition of "overpayments." The Board is unable to process refunds in the state accounting system, which has resulted in delays in processing applications and renewals.

Items 3 and 16 specify that a licensee may not self-prescribe, self-administer or self-dispense controlled substances or tramadol, or prescribe, administer, or dispense these medications to members of the licensee's immediate family.

Item 6 clarifies that graduates of accredited dental assisting programs are eligible for dental assistant registration.

Item 8 clarifies that persons who participate in dental radiography must be licensed by the Board, be currently registered as a dental assistant or hold an active nursing license, and have an active qualification in dental radiography.

Item 9 clarifies courses that may be claimed by licensees or registrants for continuing education credit.

Items 10 and 11 clarify the existing procedures used to place a license or registration on inactive status and to reinstate an inactive license or registration.

Item 13 requires that a dentist provide radiographs that are of diagnostic quality when transferring patient records.

Items 14 and 15 specify standards for use and record-keeping requirements for nitrous oxide inhalation analgesia.

Item 18 changes the quarterly fee charged to cover the Board's expenses associated with monitoring a licensee's or registrant's compliance with the settlement agreement if the licensee or registrant agrees to the provision as part of a settlement agreement to resolve a contested case.

These amendments are subject to waiver at the sole discretion of the Board in accordance with 650—Chapter 7. However, pursuant to 650—27.12(17A,147,153,272C) and 650—30.4(147,153,272C), rules in Chapters 27 and 30 are not subject to waiver. .

Any interested person may make written comments or suggestions on the proposed amendments on or before September 1, 2009. Such written comments should be directed to Jennifer Hart, Executive Officer, Iowa Dental Board, 400 SW 8th Street, Suite D, Des Moines, Iowa 50309-4687. E-mail may be sent to Jennifer.Hart@iowa.gov.

Also, there will be a public hearing on September 1, 2009, beginning at 10 a.m. in the Board Conference Room, 400 SW 8th Street, Suite D, Des Moines, Iowa. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments. Any person who plans to attend the public hearing and who may have special

requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

These amendments were approved at the July 15, 2009, regular meeting of the Iowa Dental Board.

These amendments are intended to implement Iowa Code chapters 153 and 272C.

The following amendments are proposed.

ITEM 1. Amend rule **650—1.1(153)**, definitions of “General supervision of a dental assistant,” “Inactive status,” “Personal supervision” and “Practice of dentistry,” as follows:

“*General supervision of a dental assistant*” means that a dentist has delegated the services to be provided by a registered dental assistant, which are limited to all extraoral duties, dental radiography, and intraoral suctioning. The dentist need not be present in the facility while these services are being provided.

“*Inactive status*” means the status of a practitioner licensed or registered pursuant to Iowa Code chapter 153 who is not currently engaged in the practice of dentistry, dental hygiene, or dental assisting in the state of Iowa and who has ~~obtained a certificate of exemption from compliance with the requirements for continuing dental education~~ paid the required renewal fee but who has not met the requirements for continuing education.

“*Personal supervision*” means the dentist is physically present in the treatment room to oversee and direct ~~the all intraoral or chairside services of the dental assistant trainee and a licensee or registrant is~~ physically present to oversee and direct all extraoral services of the dental assistant.

“*Practice of dentistry*” as defined in Iowa Code section 153.13 includes the rendering of professional services in this state as an employee or independent contractor or the rendering of any dental decisions, including diagnosing, treatment planning, determining the appropriateness of proposed dental care, or engaging in acts that constitute the practice of dentistry.

The following classes of persons shall also be deemed to be engaged in the practice of dentistry:

1. Persons publicly professing to be dentists, dental surgeons, or skilled in the science of dentistry, or publicly professing to assume the duties incident to the practice of dentistry.

2. Persons who perform examinations, diagnosis, treatment, and attempted correction by any medicine, appliance, surgery, or other appropriate method of any disease, condition, disorder, lesion, injury, deformity, or defect of the oral cavity and maxillofacial area, including teeth, gums, jaws, and associated structures and tissue, which methods by education, background, experience, and expertise are common to the practice of dentistry.

3. Persons who offer to perform, perform, or assist with any phase of any operation incident to tooth whitening, including the instruction or application of tooth whitening materials or procedures at any geographic location. For purposes of this paragraph, “tooth whitening” means any process to whiten or lighten the appearance of human teeth by the application of chemicals, whether or not in conjunction with a light source.

ITEM 2. Adopt the following new definition of “Overpayment” in rule **650—1.1(153)**:

“*Overpayment*” means payment in excess of the required fee. Overpayment of less than \$10 received by the board shall not be refunded.

ITEM 3. Adopt the following new subrules 16.3(7) and 16.3(8):

16.3(7) A dentist shall not self-prescribe, self-administer, or self-dispense controlled substances or tramadol.

16.3(8) Prescribing, administering, or dispensing controlled substances or tramadol to members of the licensee’s immediate family is not allowed except for an acute dental condition or on an emergency basis for a dental condition when the licensee conducts an examination, establishes a patient record, and maintains proper documentation.

ITEM 4. Amend rule **650—20.2(153)**, definitions of “Direct supervision” and “General supervision,” as follows:

“*Direct supervision*” means that the dentist is present in the treatment facility, but it is not required that the dentist be physically present in the treatment room while the registered dental assistant is performing acts assigned by the dentist.

“*General supervision*” means that a dentist has delegated the services to be provided by a registered dental assistant. The dentist need not be present in the facility while these services are being provided.

ITEM 5. Amend paragraph **20.6(1)“a”** as follows:

a. ~~The employer of~~ A dentist supervising a dental assistant trainee must notify the board in writing of such employment within seven days of the time the dental assistant begins work.

ITEM 6. Amend subparagraph **20.6(2)“a”(3)** as follows:

(3) Be a graduate of ~~a postsecondary~~ an accredited dental assisting program approved by the board; and

ITEM 7. Amend subparagraph **20.6(2)“b”(3)** as follows:

(3) Evidence of successful completion of a course of study approved by the board and sponsored by a board-approved ~~postsecondary school,~~ accredited dental assisting program in the areas of infection control, hazardous materials, and jurisprudence. The course of study may be taken at a board-approved ~~postsecondary school,~~ accredited dental assisting program or on the job using curriculum approved by the board for such purpose.

ITEM 8. Amend rule 650—22.1(136C,153) as follows:

650—22.1(136C,153) Qualification required. ~~A dental assistant~~ person who is not otherwise actively licensed by the board shall not participate in dental radiography unless the assistant person holds a current registration certificate or active nursing license and holds an active radiography qualification issued by the board, and a dentist provides general supervision.

ITEM 9. Amend paragraph **25.3(7)“b”** as follows:

b. Acceptable subject matter includes courses in patient treatment record keeping, risk management, sexual boundaries, communication, and OSHA regulations, and courses related to clinical practice. A course on Iowa jurisprudence that has been prior-approved by the board is also acceptable subject matter.

ITEM 10. Amend rule 650—25.8(153) as follows:

650—25.8(153) Exemptions for inactive practitioners. A licensee or registrant who is not engaged in practice in the state of Iowa, residing in or out of the state of Iowa, may ~~be granted a waiver of compliance and obtain a certificate of exemption upon written application to the board.~~ place the license or registration on inactive status by submitting a written renewal form and paying the required renewal fee. No continuing education hours are required to renew a license or registration on inactive status until reinstatement. ~~The application~~ A request to place a license or registration on inactive status shall also contain a statement that the applicant will not engage in the practice of the applicant’s profession in Iowa without first complying with all regulations rules governing reinstatement after exemption of inactive practitioners. ~~The application for a certificate of exemption shall be submitted upon the form provided by the board.~~

ITEM 11. Amend rule 650—25.9(153), introductory paragraph, as follows:

650—25.9(153) Reinstatement of inactive practitioners. ~~Inactive practitioners who have been granted a waiver of compliance with these regulations and obtained a certificate of exemption~~ shall, prior to engaging in the practice of dentistry, dental hygiene, or dental assisting in the state of Iowa, satisfy the following requirements for reinstatement:

ITEM 12. Amend paragraph **25.9(2)“b”** as follows:

b. Completion of a total number of hours of ~~accredited~~ approved continuing education computed by multiplying 15 by the number of years ~~a certificate of exemption shall have been in effect the license has been on inactive status~~ for a dentist or dental hygienist, up to a maximum of 75 hours for a dentist or dental hygienist, or by multiplying 10 by the number of years ~~a certificate of exemption shall have been in effect the registration has been on inactive status~~ for a dental assistant, up to a maximum of 50 hours for a dental assistant; or

ITEM 13. Amend subrule 27.11(5) as follows:

27.11(5) Confidentiality and transfer of records. Dentists shall preserve the confidentiality of patient records in a manner consistent with the protection of the welfare of the patient. Upon request of the patient or patient's legal guardian, the dentist shall furnish the dental records or copies or summaries of the records, including dental radiographs or copies of the radiographs that are of diagnostic quality, as will be beneficial for the future treatment of that patient. The dentist may charge a nominal fee for duplication of records, but may not refuse to transfer records for nonpayment of any fees.

ITEM 14. Adopt the following new paragraph **29.6(1)“e”**:

e. Ensures the patient is continually monitored by qualified personnel while receiving nitrous oxide inhalation analgesia.

ITEM 15. Amend rule 650—29.13(153) as follows:

650—29.13(153) Record keeping. The patient chart must include preoperative and postoperative vital signs, drugs administered, dosage administered, anesthesia time in minutes, and monitors used. Intermittent vital signs shall be taken and recorded in the patient chart during procedures and until the patient is fully ambulatory. The chart should contain the name of the person to whom the patient was discharged. For nitrous oxide inhalation analgesia, the patient chart must include the concentration administered and duration of administration, as well as any vital signs taken.

ITEM 16. Amend rule **650—30.4(147,153,272C)**, numbered paragraph “18,” as follows:

18. Indiscriminately or promiscuously prescribing, administering, or dispensing any drug or prescribing or dispensing any drug for other than lawful purposes: including, but not limited to, self-prescribing, self-administering or self-dispensing controlled substances or tramadol, or prescribing, dispensing, or administering controlled substances or tramadol to members of the licensee's immediate family, except for an acute dental condition or on an emergency basis for a dental condition when the licensee conducts an examination, establishes a patient record, and maintains proper documentation. Immediate family includes the licensee's spouse or domestic partner and either of the licensee's, spouse's, or domestic partner's parents, stepparents or grandparents; the licensee's children or stepchildren and any child's spouse, domestic partner, or children; the siblings of the licensee or the licensee's spouse or domestic partner and the sibling's spouse or domestic partner; or anyone else living with the licensee.

ITEM 17. Amend rule **650—30.4(147,153,272C)**, numbered paragraphs “22” and “34,” as follows:

22. Employment of or permitting an unlicensed or unregistered person or a person with a lapsed license or registration to practice dentistry, dental hygiene, or dental assisting.

34. Engaging in the practice of dentistry, dental hygiene, or dental assisting with ~~an expired~~ a lapsed or inactive renewal license, permit, or registration, or engaging in dental radiography with a lapsed or inactive dental radiography qualification.

ITEM 18. Amend subrule 51.19(9) as follows:

51.19(9) A provision for payment of the actual costs or a ~~\$100~~ \$300 quarterly fee to cover the board's expenses associated with monitoring a licensee's or registrant's compliance with the settlement agreement may be included in the settlement agreement. Actual costs include mileage, meals, travel expenses, hourly investigative time, and all incidental expenses associated with monitoring compliance. Monitoring costs shall be considered repayment receipts as defined in Iowa Code section 8.2.